IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 170 OF 2006

IN

WRIT PETITION NO. 10067 OF 2004

Jyotirling Shikshan Prasarak Mandal & Anr. .. Petitioners

V/s

State of Maharashtra & Ors. .. Respondents

Mr.R.S. Apte with Mr.M.S. Lagu for the Petitioners.

Mr.R.M. Patne, A.G.P. for Respondents No.1 to 3.

CORAM : H.L. GOKHALE & MRS. R.S. DALVI, JJ.

DATE : 13TH DECEMBER 2006

P.C. :

1. Heard Mr.Apte for the Petitioners. Mr.Patne, A.G.P. appears for Respondents No.1 to 3. Mr.Apte states that Respondent No.4 is served though he is not intimated about the date of hearing.

2. Petition seeks a review of the order that we have passed on 9th August 2005. The Petitioner had filed the earlier petition to challenge the requirement insisted by the State that if the 1st Petitioner wanted to start its school, it must agree that it will run the school permanently on a non-grant basis. The

Petitioners had also made grievances about the 4th Respondent school.

3. We had noted that the State was insisting on such a requirement. The 4th Respondent school had agreed to that condition. The Petitioners were not agreeable. Inasmuch as that was a policy matter, it was for the State to decide as to what terms it ought to have put. We therefore rejected the petition.

4. The Petitioner school has filed a separate civil application being Civil Application No.2862 of 2006 to point out various deficiencies in the 4th Respondent school. The fact however remains that the 1st Petitioner was not agreeable to the condition insisted upon by the State. That being so, it was not possible for the court to direct the State that the condition be waived and the Petitioner school be permitted to run. The Petitioner school is still not ready for such a condition. This being the position, in our view, there is no reason to recall the order that we have passed earlier. Review Petition is rejected.

5. The Petitioners are relying upon some documents to show the deficiencies in the 4th Respondent school. They may bring to the notice of the authorities concerned if they want to. The authorities will take

necessary steps for correction. C.A. 2862 of 2006 stands disposed of.

6. Mr,Apte, learned counsel for the Petitioners, submits that in the last two sentences of para 4 of our order, we have stated that the village concerned being a small one, there was no need to have another school. He makes a request that the necessary decision be taken by the authorities concerned. We accept this request made by Mr.Apte. The last two sentences, viz. "It is a small village. In fact, there is no need to have another school in the village.", will stand deleted from the order. We clarify that although it will be open to the Petitioners to point out as to why another school is justified, it will be for the authorities concerned to take decision on merits.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)